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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,328	11/13/2003	Stephan S. Porter	47168-00297USPT	9892
30223	7590	06/01/2007		
NIXON PEABODY LLP 161 N. CLARK STREET 48TH FLOOR CHICAGO, IL 60601-3213			EXAMINER WILSON, JOHN J	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/713,328

Applicant(s)

PORTER ET AL.

Examiner

John J. Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-23 and 25-40 is/are pending in the application.
- 4a) Of the above claim(s) 36-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-23 and 25-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Election/Restrictions

Claims 36-40 stand withdrawn as being directed to a non-elected invention.

A proper and full response to a Final Rejection must include the cancellation of withdrawn non-elected claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 13-23 and 25-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutter (6227859). Sutter shows an implant 1, interior bore 14, feedback feature 17, (this is proper to call a feedback feature because it is capable of functioning as claimed by stopping the insertion of the abutment when used together), threaded section 20, abutment 201, post 220, stem 210, feedback feature 212 and through bore as shown, abutment screw 601, head and threads as shown. Feature 212 is also proper to call a feedback feature because it is capable of functioning as claimed when meeting the ledge 17 when in use together with the implant. As to claim 2, Sutter shows a resilient member 241 that is capable of functioning as claimed depending on

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the intended use with the implant because the structure will inherently deform to some degree when bottom 212 meets 17. As to claim 4, structure 17 inherently comprises a lip. As to claim 5, the part of the aperture for receiving the resilient elements 241 is inherently a recess in the implant. As to claim 6, see recess 463. As to claim 7, the bottom 212 when meeting lip 17 is capable of creating an audible sound depending on the use of implant and abutment together. As to claim 10, see first diameter defined by wall 233, second diameter defined by 235, 236 and shank 606. The shown threaded sections limit axial movement. As to claims 20 and 21, Sutter shows an enlarged groove 14 with respect to the internal bore size shown at 18. As to claim 25, each element 23 is distinct.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kownacki et al (5302125). Kownacki shows an implant 12, Fig. 8, interior bore as shown, feedback feature 78, threaded section 26, abutment 20 for a prosthetic tooth, post 82, stem below 76, 79, feedback feature 46 and through bore as shown, abutment screw 22, head 86 and threads 30. Kownacki teaches that the fingers 40 can snap fit

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into position, column 3, lines 30-34 and column 4, lines 39-41. This snap fit inherently comprises a tactile feedback feature. Noticing an inherent property of a known structure does not patentably distinguish over the structure. Kownacki teaches that the coupling rotationally fixes the abutment relative to the implant, column 5, lines 37-41.

Terminal Disclaimer

The terminal disclaimer filed on April 2, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on application number 10/713,404 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

Applicant's arguments filed April 2, 2007 have been fully considered but they are not persuasive. The newly applied rejection based on Sutter is held to meet the claim language as pointed out above. As to claims 33-35, Kownacki properly teaches that the coupling rotationally fixes the abutment relative to the implant as pointed out above, and as such, meets the new claim language. Applicant's argument that the coupling of Kownacki does not rotationally fix the elements until after the abutment has been seated appears to argue the disclosed invention and not the actual claim language.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

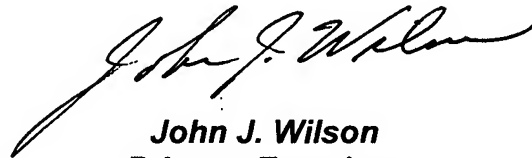
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Wilson whose telephone number is 571-272-4722. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez, can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John J. Wilson
Primary Examiner
Art Unit 3732

jjw
May 27, 2007